

AMENDED IN ASSEMBLY JUNE 9, 2004

AMENDED IN SENATE MAY 17, 2004

AMENDED IN SENATE APRIL 28, 2004

SENATE BILL

No. 1694

**Introduced by Senators Torlakson and Speier
(Coauthors: Senators Machado and Ortiz)**

February 20, 2004

An act to amend Section 68152 of the Government Code, and to amend Sections 1808, 13352, 13352.6, 13353, 13353.1, 13353.3, 13353.7, 13353.8, 23217, 23502, 23540, 23546, 23550, 23560, 23566, 23575, 23612, 23622, and 23646 of the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

SB 1694, as amended, Torlakson. Driving under the influence: sanction.

(1) Under existing law, it is unlawful to drive a motor vehicle while under the influence of alcohol, a drug, or both, or 0.08% or more, by weight, of alcohol in one's blood, or while addicted to the use of a drug. There is another crime of driving under the influence of alcohol, a drug, or both, or with 0.08% or more, by weight, alcohol in one's blood, and causing injury to another person. Under existing law, for violations of each of these offenses, commonly known as driving under the influence and driving under the influence causing injury, respectively, (DUI) a court may impose sanctions, as specified. Existing law imposes increased sanctions on persons who have previously been convicted of DUI offenses within 7 years of the commission of the current offense.

This bill would substitute a 10-year condition for the 7-year condition as a condition to imposing the increased sanctions on repeat offenders and would make conforming changes. Because this would thereby increase the level of service on local law enforcement agencies, this bill would impose a state-mandated local program.

(2) Existing law authorizes a court to order a person convicted of a DUI offense to attend an alcohol and drug problem assessment program.

This bill would require a court to order a person who has previously been convicted of either a DUI offense that occurred over 10 years ago or disorderly conduct based on being found in a public place under the influence of alcohol or drugs, and who is currently convicted of a DUI offense to attend and complete that program. The bill would ~~allow~~ *require* the court to rely on certain information and records regarding the existence of a previous conviction *occurring more than 10 years ago*. The bill would authorize a court, if the program assessment recommends additional treatment, to order the person to enroll ~~and~~, participate ~~in~~, *and complete* an enhanced treatment program.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. The Legislature finds and declares the
- 2 following:
- 3 (a) Driving under the influence of alcohol or drugs, or both,
- 4 (DUI) continues to be a significant threat to the public health and
- 5 safety.
- 6 (b) Despite significant progress and declining rates of DUI in
- 7 the last two decades, fatalities associated with this conduct have
- 8 increased for the past several years.
- 9 (c) Two hundred thirty-six more people died from DUI conduct
- 10 in 2001 than did in 1998.



1 (d) Nearly 180,000 people were arrested for DUI offenses in
2 2001, including 25 percent of whom were repeat offenders.

3 SEC. 2. Section 68152 of the Government Code is amended
4 to read:

5 68152. The trial court clerk may destroy court records under
6 Section 68153 after notice of destruction and if there is no request
7 and order for transfer of the records, except the comprehensive
8 historical and sample superior court records preserved for research
9 under the California Rules of Court, when the following times
10 have expired after final disposition of the case in the categories
11 listed:

- 12 (a) Adoption: retain permanently.
- 13 (b) Change of name: retain permanently.
- 14 (c) Other civil actions and proceedings, as follows:
 - 15 (1) Except as otherwise specified: 10 years.
 - 16 (2) Where a party appears by a guardian ad litem: 10 years after
17 termination of the court's jurisdiction.
 - 18 (3) Domestic violence: same period as duration of the
19 restraining or other orders and any renewals, then retain the
20 restraining or other orders as a judgment; 60 days after expiration
21 of the temporary protective or temporary restraining order.
 - 22 (4) Eminent domain: retain permanently.
 - 23 (5) Family law, except as otherwise specified: 30 years.
 - 24 (6) Harassment: same period as duration of the injunction and
25 any renewals, then retain the injunction as a judgment; 60 days
26 after expiration of the temporary restraining order.
 - 27 (7) Mental health (Lanterman Developmental Disabilities
28 Services Act and Lanterman-Petris-Short Act): 30 years.
 - 29 (8) Paternity: retain permanently.
 - 30 (9) Petition, except as otherwise specified: 10 years.
 - 31 (10) Real property other than unlawful detainer: retain
32 permanently if the action affects title or an interest in real property.
 - 33 (11) Small claims: 10 years.
 - 34 (12) Unlawful detainer: one year if judgment is for possession
35 of the premises; 10 years if judgment is for money.
- 36 (d) Notwithstanding subdivision (c), any civil or small claims
37 case in the trial court:
 - 38 (1) Involuntarily dismissed by the court for delay in
39 prosecution or failure to comply with state or local rules: one year.



- 1 (2) Voluntarily dismissed by a party without entry of judgment:
2 one year.
- 3 Notation of the dismissal shall be made on the civil index of
4 cases or on a separate dismissal index.
- 5 (e) Criminal.
- 6 (1) Capital felony (murder with special circumstances where
7 the prosecution seeks the death penalty): retain permanently. If the
8 charge is disposed of by acquittal or a sentence less than death, the
9 case shall be reclassified.
- 10 (2) Felony, except as otherwise specified: 75 years.
- 11 (3) Felony, except capital felony, with court records from the
12 initial complaint through the preliminary hearing or plea and for
13 which the case file does not include final sentencing or other final
14 disposition of the case because the case was bound over to the
15 superior court: five years.
- 16 (4) Misdemeanor, except as otherwise specified: five years.
- 17 (5) Misdemeanor alleging a violation of the Vehicle Code,
18 except as otherwise specified: three years.
- 19 (6) Misdemeanor alleging a violation of Section 23103, 23152,
20 or 23153 of the Vehicle Code: 10 years.
- 21 (7) Misdemeanor alleging a violation of Section 14601,
22 14601.1, 20002, 23104, or 23109 of the Vehicle Code: five years.
- 23 (8) Misdemeanor alleging a marijuana violation under
24 subdivision (b), (c), (d), or (e) of Section 11357 of the Health and
25 Safety Code, or subdivision (b) of Section 11360 of the Health and
26 Safety Code in accordance with the procedure set forth in Section
27 11361.5 of the Health and Safety Code: records shall be destroyed
28 two years from the date of conviction or from the date of arrest if
29 no conviction.
- 30 (9) Misdemeanor, infraction, or civil action alleging a violation
31 of the regulation and licensing of dogs under Sections 30951 to
32 30956, inclusive, of the Food and Agricultural Code or violation
33 of any other local ordinance: three years.
- 34 (10) Infraction, except as otherwise specified: three years.
- 35 (11) Parking infractions, including alleged violations under the
36 stopping, standing, and parking provisions set forth in Chapter 9
37 (commencing with Section 22500) of Division 11 of the Vehicle
38 Code: two years.
- 39 (f) Habeas corpus: same period as period for retention of the
40 records in the underlying case category.



1 (g) Juvenile.

2 (1) Dependent (Section 300 of the Welfare and Institutions
3 Code): upon reaching age 28 or on written request shall be released
4 to the juvenile five years after jurisdiction over the person has
5 terminated under subdivision (a) of Section 826 of the Welfare and
6 Institutions Code. Sealed records shall be destroyed upon court
7 order five years after the records have been sealed pursuant to
8 subdivision (c) of Section 389 of the Welfare and Institutions
9 Code.

10 (2) Ward (Section 601 of the Welfare and Institutions Code):
11 upon reaching age 21 or on written request shall be released to the
12 juvenile five years after jurisdiction over the person has terminated
13 under subdivision (a) of Section 826 of the Welfare and
14 Institutions Code. Sealed records shall be destroyed upon court
15 order five years after the records have been sealed under
16 subdivision (d) of Section 781 of the Welfare and Institutions
17 Code.

18 (3) Ward (Section 602 of the Welfare and Institutions Code):
19 upon reaching age 38 under subdivision (a) of Section 826 of the
20 Welfare and Institutions Code. Sealed records shall be destroyed
21 upon court order when the subject of the record reaches the age of
22 38 under subdivision (d) of Section 781 of the Welfare and
23 Institutions Code.

24 (4) Traffic and some nontraffic misdemeanors and infractions
25 (Section 601 of the Welfare and Institutions Code): upon reaching
26 age 21 or five years after jurisdiction over the person has
27 terminated under subdivision (c) of Section 826 of the Welfare and
28 Institutions Code. May be microfilmed or photocopied.

29 (5) Marijuana misdemeanor under subdivision (e) of Section
30 11357 of the Health and Safety Code in accordance with
31 procedures specified in subdivision (a) of Section 11361.5 of the
32 Health and Safety Code: upon reaching age 18 the records shall be
33 destroyed.

34 (h) Probate.

35 (1) Conservatorship: 10 years after decree of termination.

36 (2) Guardianship: 10 years after the age of 18.

37 (3) Probate, including probated wills, except as otherwise
38 specified: retain permanently.

39 (i) Court records of the appellate division of the superior court:
40 five years.



- 1 (j) Other records.
- 2 (1) Applications in forma pauperis: any time after the
- 3 disposition of the underlying case.
- 4 (2) Arrest warrant: same period as period for retention of the
- 5 records in the underlying case category.
- 6 (3) Bench warrant: same period as period for retention of the
- 7 records in the underlying case category.
- 8 (4) Bond: three years after exoneration and release.
- 9 (5) Coroner’s inquest report: same period as period for
- 10 retention of the records in the underlying case category; if no case,
- 11 then permanent.
- 12 (6) Court orders not associated with an underlying case, such
- 13 as orders for destruction of court records for telephone taps, or to
- 14 destroy drugs, and other miscellaneous court orders: three years.
- 15 (7) Court reporter notes: 10 years after the notes have been
- 16 taken in criminal and juvenile proceedings and five years after the
- 17 notes have been taken in all other proceedings, except notes
- 18 reporting proceedings in capital felony cases (murder with special
- 19 circumstances where the prosecution seeks the death penalty and
- 20 the sentence is death), including notes reporting the preliminary
- 21 hearing, which shall be retained permanently, unless the Supreme
- 22 Court on request of the court clerk authorizes the destruction.
- 23 (8) Electronic recordings made as the official record of the oral
- 24 proceedings under the California Rules of Court: any time after
- 25 final disposition of the case in infraction and misdemeanor
- 26 proceedings, 10 years in all other criminal proceedings, and five
- 27 years in all other proceedings.
- 28 (9) Electronic recordings not made as the official record of the
- 29 oral proceedings under the California Rules of Court: any time
- 30 either before or after final disposition of the case.
- 31 (10) Index, except as otherwise specified: retain permanently.
- 32 (11) Index for cases alleging traffic violations: same period as
- 33 period for retention of the records in the underlying case category.
- 34 (12) Judgments within the jurisdiction of the superior court
- 35 other than in a limited civil case, misdemeanor case, or infraction
- 36 case: retain permanently.
- 37 (13) Judgments in misdemeanor cases, infraction cases, and
- 38 limited civil cases: same period as period for retention of the
- 39 records in the underlying case category.



1 (14) Minutes: same period as period for retention of the records
2 in the underlying case category.

3 (15) Naturalization index: retain permanently.

4 (16) Ninety-day evaluation (under Section 1203.03 of the
5 Penal Code): same period as period for retention of the records in
6 the underlying case category, or period for completion or
7 termination of probation, whichever is longer.

8 (17) Register of actions or docket: same period as period for
9 retention of the records in the underlying case category, but in no
10 event less than 10 years for civil and small claims cases.

11 (18) Search warrant: 10 years, except search warrants issued in
12 connection with a capital felony case defined in paragraph (7),
13 which shall be retained permanently.

14 (k) Retention of any of the court records under this section shall
15 be extended as follows:

16 (1) By order of the court on its own motion, or on application
17 of a party or any interested member of the public for good cause
18 ~~shown and on such terms as are just. No fee shall be charged for~~
19 *shown and on those terms as are just. A fee shall not be charged*
20 *for making the application.*

21 (2) Upon application and order for renewal of the judgment to
22 the extended time for enforcing the judgment.

23 SEC. 3. *Section 1808 of the Vehicle Code is amended to read:*

24 1808. (a) Except where a specific provision of law prohibits
25 the disclosure of records or information or provides for
26 confidentiality, all records of the department relating to the
27 registration of vehicles, other information contained on an
28 application for a driver's license, abstracts of convictions, and
29 abstracts of accident reports required to be sent to the department
30 in Sacramento, except for abstracts of accidents where, in the
31 opinion of a reporting officer, another individual was at fault, shall
32 be open to public inspection during office hours. All abstracts of
33 accident reports shall be available to law enforcement agencies
34 and courts of competent jurisdiction.

35 (b) The department shall make available or disclose abstracts
36 of convictions and abstracts of accident reports required to be sent
37 to the department in Sacramento, as described in subdivision (a),
38 if the date of the occurrence is not later than the following:

39 (1) Seven years for any violation designated as two points
40 pursuant to Section 12810.



1 (2) Three years for accidents and all other violations.

2 (c) The department shall make available or disclose
3 suspensions and revocations of the driving privilege while the
4 suspension or revocation is in effect and for three years following
5 termination of the action or reinstatement of the privilege, except
6 that driver's license suspension actions taken pursuant to Sections
7 13202.6 and 13202.7, or Section 256 or 11350.6 of the Welfare and
8 Institutions Code shall be disclosed only during the actual time
9 period in which the suspension is in effect.

10 (d) The department shall not make available or disclose any
11 suspension or revocation that has been judicially set aside or
12 stayed.

13 (e) The department shall not make available or disclose
14 personal information about any person unless the disclosure is in
15 compliance with the Driver's Privacy Protection Act of 1994 (18
16 U.S.C. Sec. 2721 et seq.). However, any disclosure is subject to the
17 prohibition in paragraph (2) of subdivision (a) of Section 12800.5.

18 (f) The department shall make available or disclose to the
19 courts and law enforcement agencies any conviction of *Section*
20 *23103, as specified in Section 23103.5, or any conviction of*
21 *Section 23140, 23152, or 23153, or Section 655 of the Harbors*
22 *and Navigation Code, or paragraph (1) of subdivision (c) of*
23 *Section 192 of the Penal Code, ~~punished as a felony~~ for a period*
24 *of 10 years from the date of the offense for the purpose of imposing*
25 *penalties mandated by ~~Section 23550.5 this code~~, or by any other*
26 *applicable provisions of California law.*

27 (g) The department shall make available or disclose to the
28 courts and law enforcement agencies any conviction of Section
29 191.5, or paragraph (3) of subdivision (c) of Section 192 of the
30 Penal Code, punished as a felony, for the purpose of imposing
31 penalties mandated by Section 23550.5, or by any other applicable
32 provisions of California law.

33 *SEC. 4. Section 13352 of the Vehicle Code is amended to read:*

34 13352. (a) The department shall immediately suspend or
35 revoke, or record the court-administered suspension or revocation
36 of, the privilege of ~~any~~ a person to operate a motor vehicle upon
37 *the* receipt of an abstract of the record of any court showing that
38 the person has been convicted of a violation of Section 23152 or
39 23153 or subdivision (a) of Section 23109, or upon *the* receipt of
40 a report of a judge of the juvenile court, a juvenile hearing officer,



1 or a referee of a juvenile court showing that the person has been
2 found to have committed a violation of Section 23152 or 23153 or
3 subdivision (a) of Section 23109. If any offense specified in this
4 section occurs in a vehicle defined in Section 15210, the
5 suspension or revocation specified below shall apply to the
6 noncommercial driving privilege. The commercial driving
7 privilege shall be disqualified as specified in Sections 15300 to
8 15302, inclusive. For the purposes of this section, suspension or
9 revocation shall be as follows:

10 (1) Upon a conviction or finding of a violation of Section
11 23152 punishable under Section 23536, the privilege shall be
12 suspended for a period of six months. The privilege may not be
13 reinstated until the person gives proof of financial responsibility
14 and gives proof satisfactory to the department of successful
15 completion of a driving-under-the-influence program licensed
16 pursuant to Section 11836 of the Health and Safety Code described
17 in subdivision (b) of Section 23538. *If the court, as authorized*
18 *under paragraph (3) of subdivision (b) of Section 23646, elects to*
19 *order a person to enroll, participate and complete either program*
20 *described in paragraph (4) of subdivision (b) of Section 23542, the*
21 *department shall require that program in lieu of the program*
22 *described in subdivision (b) of Section 23538.*

23 Instead of suspending the person's driving privilege, the
24 department shall issue a restricted license upon receipt of an
25 abstract of record from the court certifying that the court has
26 granted probation to the person based on the conditions specified
27 in paragraph (2) of subdivision (a) of, and subdivision (b) of,
28 Section 23538.

29 (2) Upon a conviction or finding of a violation of Section
30 23153 punishable under Section 23554, the privilege shall be
31 suspended for a period of one year. The privilege may not be
32 reinstated until the person gives proof of financial responsibility
33 and gives proof satisfactory to the department of successful
34 completion of a driving-under-the-influence program licensed
35 pursuant to Section 11836 of the Health and Safety Code as
36 described in Section 23556. *If the court, as authorized under*
37 *paragraph (3) of subdivision (b) of Section 23646, elects to order*
38 *a person to enroll, participate, and complete either program*
39 *described in paragraph (4) of subdivision (b) of Section 23542, the*



1 *department shall require that program in lieu of the program*
2 *described in Section 23556.*

3 (3) Except as provided in Section 13352.5, upon a conviction
4 or finding of a violation of Section 23152 punishable under
5 Section 23540, the privilege shall be suspended for two years. The
6 privilege may not be reinstated until the person gives proof of
7 financial responsibility and gives proof satisfactory to the
8 department of successful completion of a
9 driving-under-the-influence program licensed pursuant to Section
10 11836 of the Health and Safety Code as described in Section
11 23542. For the purposes of this paragraph, enrollment,
12 participation, and completion of an approved program shall be
13 subsequent to the date of the current violation. ~~No credit~~ *Credit*
14 shall *not* be given to any program activities completed prior to the
15 date of the current violation. The department shall advise the
16 person that after completion of 12 months of the suspension
17 period, the person may apply to the department for a restricted
18 driver's license, subject to the following conditions:

19 (A) The person has satisfactorily provided, subsequent to the
20 current underlying conviction, either of the following:

21 (i) Proof of enrollment in an 18-month
22 driving-under-the-influence program licensed pursuant to Section
23 11836 of the Health and Safety Code.

24 (ii) Proof of enrollment in a 30-month
25 driving-under-the-influence program licensed pursuant to Section
26 11836 of the Health and Safety Code, if available in the county of
27 the person's residence or employment.

28 (B) The person agrees, as a condition of the restriction, to
29 continue satisfactory participation in the program described in
30 subparagraph (A).

31 (C) The person submits the "Verification of Installation" form
32 described in paragraph (2) of subdivision (e) of Section 13386.

33 (D) The person agrees to maintain the ignition interlock device
34 as required under subdivision (g) of Section 23575.

35 (E) The person provides proof of financial responsibility, as
36 defined in Section 16430.

37 (F) The person pays all administrative fees or reissue fees and
38 any restriction fee required by the department.

39 (G) The restriction shall remain in effect for the period required
40 in subdivision (f) of Section 23575.



1 (4) Except as provided in this paragraph, upon a conviction or
2 finding of a violation of Section 23153 punishable under Section
3 23560, the privilege shall be revoked for a period of three years.
4 The privilege may not be reinstated until the person gives proof of
5 financial responsibility, and the person gives proof satisfactory to
6 the department of successful completion of a
7 driving-under-the-influence program licensed pursuant to Section
8 11836 of the Health and Safety Code as described in Section
9 23562. For the purposes of this paragraph, enrollment,
10 participation, and completion of an approved program shall be
11 subsequent to the date of the current violation. No credit shall be
12 given to any program activities completed prior to the date of the
13 current violation. The department shall advise the person that after
14 the completion of 18 months of the revocation period, the person
15 may apply to the department for a restricted driver's license,
16 subject to the following conditions:

17 (A) The person has satisfactorily completed, subsequent to the
18 current underlying conviction, either of the following:

19 (i) An 18-month driving-under-the-influence program
20 licensed pursuant to Section 11836 of the Health and Safety Code.

21 (ii) The initial 18 months of a 30-month
22 driving-under-the-influence program licensed pursuant to Section
23 11836 of the Health and Safety Code, if available in the county of
24 the person's residence or employment, and the person agrees, as
25 a condition of the restriction, to continue satisfactory participation
26 in that 30-month program.

27 (B) The person submits the "Verification of Installation" form
28 described in paragraph (2) of subdivision (e) of Section 13386.

29 (C) The person agrees to maintain the ignition interlock device
30 as required under subdivision (g) of Section 23575.

31 (D) The person provides proof of financial responsibility, as
32 defined in Section 16430.

33 (E) The person pays all applicable reinstatement or reissue fees
34 and any restriction fee required by the department.

35 (F) The restriction shall remain in effect for the period required
36 in subdivision (f) of Section 23575.

37 (5) Except as provided in this paragraph, upon a conviction or
38 finding of a violation of Section 23152 punishable under Section
39 23546, the privilege shall be revoked for a period of three years.
40 The privilege shall not be reinstated until the person files proof of



1 financial responsibility and gives proof satisfactory to the
2 department of successful completion of one of the following
3 programs: an 18-month driving-under-the-influence program
4 licensed pursuant to Section 11836 of the Health and Safety Code
5 or, if available in the county of the person's residence or
6 employment, a 30-month driving-under-the-influence program
7 licensed pursuant to Section 11836 of the Health and Safety Code,
8 or a program specified in Section 8001 of the Penal Code. For the
9 purposes of this paragraph, enrollment, participation, and
10 completion of an approved program shall be subsequent to the date
11 of the current violation. ~~No credit~~ *Credit* shall *not* be given to any
12 program activities completed prior to the date of the current
13 violation. The department shall advise the person that after
14 completion of 18 months of the revocation period, the person may
15 apply to the department for a restricted driver's license, subject to
16 the following conditions:

17 (A) The person has satisfactorily completed, subsequent to the
18 current underlying conviction, either of the following:

19 (i) An 18-month driving-under-the-influence program
20 licensed pursuant to Section 11836 of the Health and Safety Code.

21 (ii) The initial 18 months of a 30-month
22 driving-under-the-influence program licensed pursuant to Section
23 11836 of the Health and Safety Code, if available in the county of
24 the person's residence or employment, and the person agrees, as
25 a condition of the restriction, to continue satisfactory participation
26 in the 30-month driving-under-the-influence program.

27 (B) The person submits the "Verification of Installation" form
28 described in paragraph (2) of subdivision (e) of Section 13386.

29 (C) The person agrees to maintain the ignition interlock device
30 as required under subdivision (g) of Section 23575.

31 (D) The person provides proof of financial responsibility, as
32 defined in Section 16430.

33 (E) ~~Any~~ *An* individual convicted of a violation of Section
34 23152 punishable under Section 23546 may also, at any time after
35 sentencing, petition the court for referral to an 18-month
36 driving-under-the-influence program licensed pursuant to Section
37 11836 of the Health and Safety Code, or, if available in the county
38 of the person's residence or employment, a 30-month
39 driving-under-the-influence program licensed pursuant to Section



1 11836 of the Health and Safety Code. Unless good cause is shown,
2 the court shall order the referral.

3 (F) The person pays all applicable reinstatement or reissue fees
4 and any restriction fee required by the department.

5 (G) The restriction shall remain in effect for the period required
6 in subdivision (f) of Section 23575.

7 (6) Except as provided in this paragraph, upon a conviction or
8 finding of a violation of Section 23153 punishable under Section
9 23566, the privilege shall be revoked for a period of five years. The
10 privilege may not be reinstated until the person gives proof of
11 financial responsibility and proof satisfactory to the department of
12 successful completion of one of the following programs: an
13 18-month driving-under-the-influence program licensed pursuant
14 to Section 11836 of the Health and Safety Code, or, if available in
15 the county of the person's residence or employment, a 30-month
16 driving-under-the-influence program licensed pursuant to Section
17 11836 of the Health and Safety Code, or a program specified in
18 Section 8001 of the Penal Code. For the purposes of this
19 paragraph, enrollment, participation, and completion of an
20 approved program shall be subsequent to the date of the current
21 violation. ~~No credit~~ *Credit* shall *not* be given to any program
22 activities completed prior to the date of the current violation. The
23 department shall advise the person that after the completion of 30
24 months of the revocation period, the person may apply to the
25 department for a restricted driver's license, subject to the
26 following conditions:

27 (A) The person has satisfactorily completed, subsequent to the
28 current underlying conviction, either of the following:

29 (i) The initial 18 months of a 30-month
30 driving-under-the-influence program licensed pursuant to Section
31 11836 of the Health and Safety Code, if available in the county of
32 the person's residence or employment, and the person agrees, as
33 a condition of the restriction, to continue satisfactory participation
34 in the 30-month driving-under-the-influence program.

35 (ii) An 18-month driving-under-the-influence program
36 licensed pursuant to Section 11836 of the Health and Safety Code,
37 if a 30-month program is unavailable in the person's county of
38 residence or employment.

39 (B) The person submits the "Verification of Installation" form
40 described in paragraph (2) of subdivision (e) of Section 13386.



1 (C) The person agrees to maintain the ignition interlock device
2 as required under subdivision (g) of Section 23575.

3 (D) The person provides proof of financial responsibility, as
4 defined in Section 16430.

5 (E) Any individual convicted of a violation of Section 23153
6 punishable under Section 23566 may also, at any time after
7 sentencing, petition the court for referral to an 18-month
8 driving-under-the-influence program or, if available in the county
9 of the person's residence or employment, a 30-month program
10 licensed pursuant to Section 11836 of the Health and Safety Code.
11 Unless good cause is shown, the court shall order the referral.

12 (F) The person pays all applicable reinstatement or reissue fees
13 and any restriction fee required by the department.

14 (G) The restriction shall remain in effect for the period required
15 in subdivision (f) of Section 23575.

16 (7) Except as provided in this paragraph, upon a conviction or
17 finding of a violation of Section 23152 punishable under Section
18 23550 or 23550.5, or Section 23153 punishable under Section
19 23550.5 the privilege shall be revoked for a period of four years.
20 The privilege may not be reinstated until the person gives proof of
21 financial responsibility and proof satisfactory to the department of
22 successful completion of one of the following programs: an
23 18-month driving-under-the-influence program licensed pursuant
24 to Section 11836 of the Health and Safety Code, or, if available in
25 the county of the person's residence or employment, a 30-month
26 driving-under-the-influence program licensed pursuant to Section
27 11836 of the Health and Safety Code, or a program specified in
28 Section 8001 of the Penal Code. For the purposes of this
29 paragraph, enrollment, participation, and completion of an
30 approved program shall be subsequent to the date of the current
31 violation. ~~No credit~~ *Credit* shall *not* be given to any program
32 activities completed prior to the date of the current violation. The
33 department shall advise the person that after the completion of 24
34 months of the revocation period, the person may apply to the
35 department for a restricted driver's license, subject to the
36 following conditions:

37 (A) The person has satisfactorily completed, subsequent to the
38 current underlying conviction, either of the following:

39 (i) An 18-month driving-under-the-influence program
40 licensed pursuant to Section 11836 of the Health and Safety Code.



1 (ii) The initial 18 months of a 30-month
2 driving-under-the-influence program licensed pursuant to Section
3 11836 of the Health and Safety Code, if available in the county of
4 the person’s residence or employment, and the person agrees, as
5 a condition of the restriction, to continue satisfactory participation
6 in the 30-month driving-under-the-influence program.

7 (B) The person submits the “Verification of Installation” form
8 described in paragraph (2) of subdivision (e) of Section 13386.

9 (C) The person agrees to maintain the ignition interlock device
10 as required under subdivision (g) of Section 23575.

11 (D) The person provides proof of financial responsibility, as
12 defined in Section 16430.

13 (E) ~~Any~~ *An* individual convicted of a violation of Section
14 23152 punishable under Section 23550 may also, at any time after
15 sentencing, petition the court for referral to an 18-month
16 driving-under-the-influence program or, if available in the county
17 of the person’s residence or employment, a 30-month
18 driving-under-the-influence program licensed pursuant to Section
19 11836 of the Health and Safety Code. Unless good cause is shown,
20 the court shall order the referral.

21 (F) The person pays all applicable reinstatement or reissue fees
22 and any restriction fee required by the department.

23 (G) The restriction shall remain in effect for the period required
24 in subdivision (f) of Section 23575.

25 (8) Upon a conviction or finding of a violation of subdivision
26 (a) of Section 23109 punishable under subdivision (e) of that
27 section, the privilege shall be suspended for a period of 90 days to
28 six months, if and as ordered by the court.

29 (9) Upon a conviction or finding of a violation of subdivision
30 (a) of Section 23109 punishable under subdivision (f) of that
31 section, the privilege shall be suspended for a period of six months,
32 if the court orders the department to suspend the privilege. The
33 privilege may not be reinstated until the person gives proof of
34 financial responsibility.

35 (b) For the purpose of paragraphs (2) to (9), inclusive, of
36 subdivision (a), the finding of the juvenile court judge, the juvenile
37 hearing officer, or the referee of a juvenile court of a commission
38 of a violation of Section 23152 or 23153 or subdivision (a) of
39 Section 23109, as specified in subdivision (a) of this section, is a
40 conviction.



1 (c) Each judge of a juvenile court, juvenile hearing officer, or
2 referee of a juvenile court shall immediately report the findings
3 specified in subdivision (a) to the department.

4 (d) A conviction of an offense in any state, territory, or
5 possession of the United States, the District of Columbia, the
6 Commonwealth of Puerto Rico, or Canada that, if committed in
7 this state, would be a violation of Section 23152, is a conviction
8 of Section 23152 for purposes of this section, and a conviction of
9 an offense that, if committed in this state, would be a violation of
10 Section 23153, is a conviction of Section 23153 for purposes of
11 this section. The department shall suspend or revoke the privilege
12 to operate a motor vehicle pursuant to this section upon receiving
13 notice of that conviction.

14 (e) For the purposes of the restriction conditions specified in
15 paragraphs (3) to (7), inclusive, of subdivision (a), the department
16 shall terminate the restriction imposed pursuant to this section and
17 shall suspend or revoke the person's driving privilege upon receipt
18 of notification from the program that the person has failed to
19 comply with the program requirements. The person's driving
20 privilege shall remain suspended or revoked for the remaining
21 period of the originating suspension or revocation and until all
22 reinstatement requirements described in this section are met.

23 (f) For *the* purposes of this section, completion of a program is
24 the following:

25 (1) Satisfactory completion of all program requirements
26 approved pursuant to program licensure, as evidenced by a
27 certificate of completion issued, under penalty of perjury, by the
28 licensed program.

29 (2) Certification, under penalty of perjury, by the director of a
30 program specified in Section 8001 of the Penal Code, that the
31 person has completed a program specified in Section 8001 of the
32 Penal Code.

33 *SEC. 5. Section 13352.6 of the Vehicle Code is amended to*
34 *read:*

35 13352.6. (a) The department shall immediately suspend the
36 driving privilege of any person who is 18 years of age or older and
37 is convicted of a violation of Section 23140, upon *the* receipt of a
38 duly certified abstract of the record of any court showing that
39 conviction. The privilege may not be reinstated until the person
40 provides the department with proof, satisfactory to the



1 department, of financial responsibility and of successful
2 completion of a driving-under-the-influence program licensed
3 under Section 11836 of the Health and Safety Code. That
4 attendance shall be as follows:

5 (1) If, within ~~seven~~ 10 years of the current violation of Section
6 23140, the person has not been convicted of a separate violation
7 of Section 23140, 23152, or 23153, or of Section 23103, with a
8 plea of guilty under Section 23103.5, or of Section 655 of the
9 Harbors and Navigation Code, or of Section 191.5 of, or paragraph
10 (3) of subdivision (c) of Section 192 of, the Penal Code, the person
11 shall complete, at a minimum, the education component of that
12 licensed driving-under-the-influence program.

13 (2) If the person does not meet the requirements of paragraph
14 (1), the person shall complete, at a minimum, the program
15 described in paragraph (1) of subdivision (c) of Section 11837 of
16 the Health and Safety Code.

17 (b) For the purposes of this section, enrollment, participation,
18 and completion of the program shall be subsequent to the date of
19 the current violation. ~~No credit~~ *Credit* for enrollment,
20 participation, or completion may *not* be given for any program
21 activities completed prior to the date of the current violation.

22 *SEC. 6. Section 13353 of the Vehicle Code is amended to read:*

23 13353. (a) If ~~any~~ a person refuses the officer's request to
24 submit to, or fails to complete, a chemical test or tests pursuant to
25 Section 23612, upon *the* receipt of the officer's sworn statement
26 that the officer had reasonable cause to believe the person had been
27 driving a motor vehicle in violation of Section 23140, 23152, or
28 23153, and that the person had refused to submit to, or did not
29 complete, the test or tests after being requested by the officer, the
30 department shall do one of the following:

31 (1) Suspend the person's privilege to operate a motor vehicle
32 for a period of one year.

33 (2) Revoke the person's privilege to operate a motor vehicle for
34 a period of two years if the refusal occurred within ~~seven~~ 10 years
35 of either (A) a separate violation of Section 23103, as specified in
36 Section 23103.5, or of Section 23140, 23152, or 23153, or of
37 Section 191.5 or paragraph (3) of subdivision (c) of Section 192
38 of the Penal Code, that resulted in a conviction, or (B) a suspension
39 or revocation of the person's privilege to operate a motor vehicle



1 pursuant to this section or Section 13353.2 for an offense ~~which~~
2 *that* occurred on a separate occasion.

3 (3) Revoke the person's privilege to operate a motor vehicle for
4 a period of three years if the refusal occurred within ~~seven~~ 10 years
5 of any of the following:

6 (A) Two or more separate violations of Section 23103, as
7 specified in Section 23103.5, or of Section 23140, 23152, or
8 23153, or of Section 191.5 or paragraph (3) of subdivision (c) of
9 Section 192 of the Penal Code, or any combination thereof, ~~which~~
10 *that* resulted in convictions.

11 (B) Two or more suspensions or revocations of the person's
12 privilege to operate a motor vehicle pursuant to this section or
13 Section 13353.2 for offenses which occurred on separate
14 occasions.

15 (C) Any combination of two or more of those convictions or
16 administrative suspensions or revocations.

17 The officer's sworn statement shall be submitted pursuant to
18 Section 13380 on a form furnished or approved by the department.
19 The suspension or revocation shall not become effective until 30
20 days after the giving of written notice thereof, or until the end of
21 any stay of the suspension or revocation, as provided for in Section
22 13558.

23 (D) For *the* purposes of this section, a conviction of any offense
24 in any state, territory, or possession of the United States, the
25 District of Columbia, the Commonwealth of Puerto Rico, or
26 Canada that, if committed in this state, would be a violation of
27 Section 23103, as specified in Section 23103.5, or Section 23140,
28 23152, or 23153, or Section 191.5 or paragraph (3) of subdivision
29 (c) of Section 192 of the Penal Code, is a conviction of that
30 particular section of the Vehicle or Penal Code.

31 (b) The notice of the order of suspension or revocation under
32 this section shall be served on the person by a peace officer
33 pursuant to Section 23612. The notice of the order of suspension
34 or revocation shall be on a form provided by the department. If the
35 notice of the order of suspension or revocation has not been served
36 by the peace officer pursuant to Section 23612, the department
37 immediately shall notify the person in writing of the action taken.
38 The peace officer who serves the notice, or the department, if
39 applicable, also shall provide, if the officer or department, as the
40 case may be, determines that it is necessary to do so, the person



1 with the appropriate non-English notice developed pursuant to
2 subdivision (d) of Section 14100.

3 (c) Upon *the* receipt of the officer's sworn statement, the
4 department shall review the record. For *the* purposes of this
5 section, the scope of the administrative review shall cover all of the
6 following issues:

7 (1) Whether the peace officer had reasonable cause to believe
8 the person had been driving a motor vehicle in violation of Section
9 23140, 23152, or 23153.

10 (2) Whether the person was placed under arrest.

11 (3) Whether the person refused to submit to, or did not
12 complete, the test or tests after being requested by a peace officer.

13 (4) Whether, except for ~~the persons~~ *a person* described in
14 subdivision (a) of Section 23612 who ~~are~~ *is* incapable of refusing,
15 the person had been told that his or her driving privilege would be
16 suspended or revoked if he or she refused to submit to, or did not
17 complete, the test or tests.

18 (d) The person may request an administrative hearing pursuant
19 to Section 13558. Except as provided in subdivision (e) of Section
20 13558, the request for an administrative hearing does not stay the
21 order of suspension or revocation.

22 *SEC. 7. Section 13353.1 of the Vehicle Code is amended to*
23 *read:*

24 13353.1. (a) If ~~any~~ *a* person refuses an officer's request to
25 submit to, or fails to complete, a preliminary alcohol screening test
26 pursuant to Section 13388, upon *the* receipt of the officer's sworn
27 statement, submitted pursuant to Section 13380, that the officer
28 had reasonable cause to believe the person had been driving a
29 motor vehicle in violation of Section 23136, and that the person
30 had refused to submit to, or did not complete, the test after being
31 requested by the officer, the department shall do one of the
32 following:

33 (1) Suspend the person's privilege to operate a motor vehicle
34 for a period of one year.

35 (2) Revoke the person's privilege to operate a motor vehicle for
36 a period of two years if the refusal occurred within ~~seven~~ *10* years
37 of either of the following:

38 (A) A separate violation of subdivision (a) of Section 23136,
39 ~~which~~ *that* resulted in a finding of a violation, or a separate
40 violation, ~~which~~ *that* resulted in a conviction, of Section 23103, as



1 specified in Section 23103.5, of Section 23140, 23152, or 23153,
2 of Section 191.5 of the Penal Code, or of paragraph (3) of
3 subdivision (c) of Section 192 of that code.

4 (B) A suspension or revocation of the person's privilege to
5 operate a motor vehicle if that action was taken pursuant to this
6 section or Section 13353 or 13353.2 for an offense that occurred
7 on a separate occasion.

8 (3) Revoke the person's privilege to operate a motor vehicle for
9 a period of three years if the refusal occurred within ~~seven~~ 10 years
10 of any of the following:

11 (A) Two or more separate violations of subdivision (a) of
12 Section 23136, ~~which~~ *that* resulted in findings of violations, or two
13 or more separate violations, ~~which~~ *that* resulted in convictions, of
14 Section 23103, as specified in Section 23103.5, of Section 23140,
15 23152, or 23153, of Section 191.5 of the Penal Code, or of
16 paragraph (3) of subdivision (c) of Section 192 of that code, or any
17 combination thereof.

18 (B) Two or more suspensions or revocations of the person's
19 privilege to operate a motor vehicle if those actions were taken
20 pursuant to this section, or Section 13353 or 13353.2, for offenses
21 that occurred on separate occasions.

22 (C) Any combination of two or more of the convictions or
23 administrative suspensions or revocations described in
24 ~~subparagraphs~~ *subparagraph* (A) or (B).

25 (b) For *the* purposes of this section, a conviction of any offense
26 in any state, territory, or possession of the United States, the
27 District of Columbia, the Commonwealth of Puerto Rico, or
28 Canada that, if committed in this state, would be a violation of
29 Section 23103, as specified in Section 23103.5, or Section 23140,
30 23152, or 23153, or Section 191.5 or paragraph (3) of subdivision
31 (c) of Section 192 of the Penal Code, is a conviction of that
32 particular section of the Vehicle or Penal Code.

33 (c) The notice of the order of suspension or revocation under
34 this section shall be served on the person by the peace officer
35 pursuant to Section 13388 and shall not become effective until 30
36 days after the person is served with that notice. The notice of the
37 order of suspension or revocation shall be on a form provided by
38 the department. If the notice of the order of suspension or
39 revocation has not been served by the peace officer pursuant to
40 Section 13388, the department immediately shall notify the person



1 in writing of the action taken. The peace officer who serves the
2 notice, or the department, if applicable, also shall provide, if the
3 officer or department, as the case may be, determines that it is
4 necessary to do so, the person with the appropriate non-English
5 notice developed pursuant to subdivision (d) of Section 14100.

6 (d) Upon *the* receipt of the officer's sworn statement, the
7 department shall review the record. For *the* purposes of this
8 section, the scope of the administrative review shall cover all of the
9 following issues:

10 (1) Whether the peace officer had reasonable cause to believe
11 the person had been driving a motor vehicle in violation of Section
12 23136.

13 (2) Whether the person was lawfully detained.

14 (3) Whether the person refused to submit to, or did not
15 complete, the test after being requested to do so by a peace officer.

16 (e) The person may request an administrative hearing pursuant
17 to Section 13558. Except as provided in subdivision (e) of Section
18 13558, the request for an administrative hearing does not stay the
19 order of suspension or revocation.

20 *SEC. 8. Section 13353.3 of the Vehicle Code is amended to*
21 *read:*

22 13353.3. (a) An order of suspension of a person's privilege
23 to operate a motor vehicle pursuant to Section 13353.2 shall
24 become effective 30 days after the person is served with the notice
25 pursuant to Section 13382 or 13388, or subdivision (b) of Section
26 13353.2.

27 (b) The period of suspension of a person's privilege to operate
28 a motor vehicle under Section 13353.2 is as follows:

29 (1) Except as provided in Section 13353.6, if the person has not
30 been convicted of a separate violation of Section 23103, as
31 specified in Section 23103.5, of Section 23140, 23152, or 23153,
32 of Section 191.5 of the Penal Code, or of paragraph (3) of
33 subdivision (c) of Section 192 of that code, the person has not been
34 administratively determined to have refused chemical testing
35 pursuant to Section 13353 or 13353.1, or the person has not been
36 administratively determined to have been driving with an
37 excessive concentration of alcohol pursuant to Section 13353.2 on
38 a separate occasion, ~~which~~ *that* offense or occurrence occurred
39 within ~~seven~~ 10 years of the occasion in question, the person's



1 privilege to operate a motor vehicle shall be suspended for four
2 months.

3 (2) If the person has been convicted of one or more separate
4 violations of Section 23103, as specified in Section 23103.5,
5 Section 23140, 23152, or 23153, Section 191.5 of the Penal Code,
6 or paragraph (3) of subdivision (c) of Section 192 of that code, the
7 person has been administratively determined to have refused
8 chemical testing pursuant to Section 13353 or 13353.1, or the
9 person has been administratively determined to have been driving
10 with an excessive concentration of alcohol pursuant to Section
11 13353.2 on a separate occasion, ~~which~~ *that* offense or occasion
12 occurred within ~~seven~~ 10 years of the occasion in question, the
13 person's privilege to operate a motor vehicle shall be suspended
14 for one year.

15 (3) Notwithstanding any other provision of law, if a person has
16 been administratively determined to have been driving in violation
17 of Section 23136 or to have refused chemical testing pursuant to
18 Section 13353.1, the period of suspension shall not be for less than
19 one year.

20 (c) If a person's privilege to operate a motor vehicle is
21 suspended pursuant to Section 13353.2 and the person is convicted
22 of a violation of Section 23140, 23152, or 23153, including a
23 violation described in Section 23620, arising out of the same
24 occurrence, both the suspension under Section 13353.2 and the
25 suspension or revocation under Section 13352 shall be imposed,
26 except that, notwithstanding Section 13354, the periods of
27 suspension or revocation shall run concurrently, and the total
28 period of suspension or revocation shall not exceed the longer of
29 the two suspension or revocation periods. This subdivision shall
30 not affect a suspension or revocation pursuant to Section 13353 for
31 refusal to submit to chemical testing or the imposition of
32 consecutive periods of suspension or revocation pursuant to
33 Section 13354 for that refusal.

34 (d) For *the* purposes of this section, a conviction of any offense
35 in any state, territory, or possession of the United States, the
36 District of Columbia, the Commonwealth of Puerto Rico, or
37 Canada that, if committed in this state, would be a violation of
38 Section 23103, as specified in Section 23103.5, or Section 23140,
39 23152, or 23153, or Section 191.5 or paragraph (3) of subdivision



1 (c) of Section 192 of the Penal Code, is a conviction of that
2 particular section of the Vehicle or Penal Code.

3 *SEC. 9. Section 13353.7 of the Vehicle Code is amended to*
4 *read:*

5 13353.7. (a) Subject to subdivision (c) and except as
6 provided in Section 13353.6 for persons who have commercial
7 driver's licenses, if the person whose driving privilege has been
8 suspended under Section 13353.2 has not been convicted of, or
9 found to have committed, a separate violation of Section 23103,
10 as specified in Section 23103.5, *or* Section 23140, 23152, or
11 23153 of this code, or Section 191.5 or paragraph (3) of
12 subdivision (c) of Section 192 of the Penal Code, and if the
13 person's privilege to operate a motor vehicle has not been
14 suspended or revoked pursuant to Section 13353 or 13353.2 for an
15 offense ~~which~~ *that* occurred on a separate occasion within ~~seven~~
16 *10* years of the occasion in question and, if the person subsequently
17 enrolls in a program described in Section 11837.3 of the Health
18 and Safety Code, pursuant to subdivision (b) of Section 23538,
19 that person, if 21 years of age or older at the time the offense
20 occurred, may apply to the department for a restricted driver's
21 license limited to travel to and from the activities required by the
22 program or to and from and in the course of the person's
23 employment, or both. Notwithstanding any other provision of law,
24 if the person's restricted driver's license permits travel to and from
25 and in the course of his or her employment, the person's privilege
26 to operate a motor vehicle shall be suspended, subject to the
27 restriction, for six months. After receiving proof of enrollment in
28 the program, and if the person has not been arrested subsequent to
29 the offense for which the person's driving privilege has been
30 suspended under Section 13353.2 for a violation of Section 23103,
31 as specified in Section 23103.5, *or* Section 23140, 23152, or
32 23153 of this code, or Section 191.5 or paragraph (3) of
33 subdivision (c) of Section 192 of the Penal Code, and if the
34 person's privilege to operate a motor vehicle has not been
35 suspended or revoked pursuant to Section 13353 or 13353.2 for an
36 offense ~~—which~~ *that* occurred on a separate occasion,
37 notwithstanding Section 13551, the department shall, after review
38 pursuant to Section 13557, suspend the person's privilege to
39 operate a motor vehicle for 30 days and then issue the person a
40 restricted driver's license under the following conditions:



1 (1) The program shall report any failure to participate in the
2 program to the department and shall certify successful completion
3 of the program to the department.

4 (2) The person was 21 years of age or older at the time the
5 offense occurred and gives proof of financial responsibility as
6 defined in Section 16430.

7 (3) The restricted driver's license authorizes the operation of a
8 motor vehicle only to and from the activities required under the
9 program.

10 (4) If ~~any~~ a person who has been issued a restricted license
11 under this section fails at any time to participate in the program,
12 the department shall suspend the restricted license immediately.
13 The department shall give notice of the suspension under this
14 paragraph in the same manner as prescribed in subdivision (b) of
15 Section 13353.2 for the period specified in Section 13353.3, ~~which~~
16 *that* is effective upon receipt by the person.

17 (5) On or after 60 days after the effective date of the restricted
18 license, and upon notification of successful completion of the
19 program, the department may issue an unrestricted driver's license
20 to the person.

21 (b) If the court of jurisdiction in a criminal action arising out of
22 the same offense orders the department to suspend or revoke the
23 person's privilege to operate a motor vehicle or does not grant
24 probation after conviction of that offense, notwithstanding
25 subdivision (a), the department shall suspend or revoke the
26 person's privilege pursuant to the order of the court or Section
27 13352.

28 (c) If the holder of a commercial driver's license was operating
29 a commercial vehicle, as defined in Section 15210, at the time of
30 the violation which resulted in the suspension of that person's
31 driving privilege under Section 13353.2, the department shall,
32 pursuant to this section, if the person is otherwise eligible, issue the
33 person a class C driver's license restricted in the same manner and
34 subject to the same conditions as specified in subdivision (a),
35 except that the license shall not allow travel to and from or in the
36 course of the person's employment.

37 (d) This section does not apply to a person whose driving
38 privilege has been suspended or revoked pursuant to the order of
39 the court or Section 13353 or 13353.2 for an offense ~~which~~ *that*
40 occurred on a separate occasion, or as a result of a conviction of



1 a separate violation of Section 23103, as specified in Section
2 23103.5, or Section 23140, 23152, or 23153, ~~which~~ *that* violation
3 occurred within ~~seven~~ 10 years of the offense in question. This
4 subdivision shall be operative only so long as a one-year
5 suspension of the driving privilege for a second or subsequent
6 occurrence or offense, with no restricted or hardship licenses
7 permitted, is required by Section 408 or 410 of Title 23 of the
8 United States Code.

9 *SEC. 10. Section 13353.8 of the Vehicle Code is amended to*
10 *read:*

11 13353.8. (a) After the department has issued an order
12 suspending or delaying driving privileges as a result of a violation
13 of subdivision (a) of Section 23136, the department, upon *the*
14 petition of the person affected, may review the order and may
15 impose restrictions on the person’s privilege to drive based upon
16 a showing of a critical need to drive, if the department determines
17 that, within ~~seven~~ 10 years of the current violation of Section
18 23136, the person has not violated Section 23136 or been
19 convicted of a separate violation of Section 23140, 23152, or
20 23153, or of Section 23103, with a plea of guilty under Section
21 23103.5, or of Section 191.5 of, or paragraph (3) of subdivision (c)
22 of Section 192 of, the Penal Code, and that the person’s driving
23 privilege has not been suspended or revoked under Section 13353,
24 13353.1, or 13353.2 within that ~~seven-year~~ 10-year period.

25 (b) For purposes of this section, a conviction of an offense in
26 a state, territory, or possession of the United States, the District of
27 Columbia, the Commonwealth of Puerto Rico, or the Dominion of
28 Canada that, if committed in this state, would be a violation of
29 Section 23103, as specified in Section 23103.5, or Section 23140,
30 23152, 23153, or Section 191.5 or paragraph (3) of subdivision (c)
31 of Section 192 of the Penal Code, is a conviction of that particular
32 section of the Vehicle Code or Penal Code.

33 (c) As used in this section, “critical need to drive” means the
34 circumstances that are required to be shown for the issuance of a
35 junior permit pursuant to Section 12513.

36 (d) The restriction shall be imposed not earlier than the 31st day
37 after the date the order of suspension became effective and shall
38 remain in effect for the balance of the period of suspension or
39 restriction in this section.



1 *SEC. 11. Section 23217 of the Vehicle Code is amended to*
2 *read:*

3 23217. The Legislature finds and declares that some repeat
4 offenders of the prohibition against driving under the influence of
5 alcohol or drugs, when they are addicted or when they have too
6 much alcohol in their systems, may be escaping the intent of the
7 Legislature to punish the offender with progressively greater
8 severity if the offense is repeated one or more times within a
9 ~~seven-year~~ 10-year period. This situation may occur when a
10 conviction for a subsequent offense occurs before a conviction is
11 obtained on an earlier offense.

12 The Legislature further finds and declares that the timing of
13 court proceedings should not permit a person to avoid aggravated
14 mandatory minimum penalties for multiple separate offenses
15 occurring within a ~~seven-year~~ 10-year period. It is the intent of the
16 Legislature to provide that a person be subject to enhanced
17 mandatory minimum penalties for multiple offenses within a
18 period of ~~seven~~ 10 years, regardless of whether the convictions are
19 obtained in the same sequence as the offenses had been committed.

20 Nothing in this section requires consideration of judgment of
21 conviction in a separate proceeding ~~which~~ *that* is entered after the
22 judgment in the present proceeding, except as it relates to violation
23 of probation.

24 Nothing in this section or the amendments to Section 23540,
25 23546, 23550, 23560, 23566, 23622, or 23640 made by Chapter
26 1205 of the Statutes of 1984 affects the penalty for a violation of
27 Section 23152 or 23153 occurring prior to January 1, 1985.

28 *SEC. 12. Section 23502 of the Vehicle Code is amended to*
29 *read:*

30 23502. (a) Notwithstanding any other provision of law, if a
31 person who is at least 18 years of age is convicted of a first
32 violation of Section 23140, in addition to any penalties, the court
33 shall order the person to attend a program licensed under Section
34 11836 of the Health and Safety Code, subject to a fee schedule
35 developed under paragraph (2) of subdivision (b) of Section
36 11837.4 of the Health and Safety Code.

37 (b) The attendance in a licensed driving-under-the-influence
38 program required under subdivision (a) shall be as follows:

39 (1) If, within ~~seven~~ 10 years of the current violation of Section
40 23140, the person has not been convicted of a separate violation



1 of Section 23140, 23152, or 23153, or of Section 23103, with a
2 plea of guilty under Section 23103.5, or of Section 655 of the
3 Harbors and Navigation Code, or of Section 191.5 of, or paragraph
4 (3) of subdivision (c) of Section 192 of, the Penal Code, the person
5 shall complete, at a minimum, the education component of that
6 licensed driving-under-the-influence program.

7 (2) If the person does not meet the requirements of paragraph
8 (1), the person shall complete, at a minimum, the program
9 described in paragraph (1) of subdivision (c) of Section 11837 of
10 the Health and Safety Code.

11 (c) The person's privilege to operate a motor vehicle shall be
12 suspended by the department as required under Section 13352.6,
13 and the court shall require the person to surrender his or her
14 driver's license to the court in accordance with Section 13550.

15 (d) The court shall advise the person at the time of sentencing
16 that the driving privilege will not be restored until the person has
17 provided the department with proof satisfactory to the department
18 that the person has successfully completed the ~~driving under the~~
19 ~~influence~~ *driving-under-the-influence* program required under
20 this section.

21 *SEC. 13.* Section 23540 of the Vehicle Code is amended to
22 read:

23 23540. If a person is convicted of a violation of Section 23152
24 and the offense occurred within 10 years of a separate violation of
25 Section 23103, as specified in Section 23103.5, 23152, or 23153,
26 that resulted in a conviction, that person shall be punished by
27 imprisonment in the county jail for not less than 90 days nor more
28 than one year and by a fine of not less than three hundred ninety
29 dollars (\$390) nor more than one thousand dollars (\$1,000). The
30 person's privilege to operate a motor vehicle shall be suspended by
31 the Department of Motor Vehicles pursuant to paragraph (3) of
32 subdivision (a) of Section 13352. The court shall require the
33 person to surrender the driver's license to the court in accordance
34 with Section 13550.

35 ~~SEC. 4.—~~

36 *SEC. 14.* Section 23546 of the Vehicle Code is amended to
37 read:

38 23546. (a) If a person is convicted of a violation of Section
39 23152 and the offense occurred within 10 years of two separate
40 violations of Section 23103, as specified in Section 23103.5,



1 23152, or 23153, or any combination thereof, that resulted in
2 convictions, that person shall be punished by imprisonment in the
3 county jail for not less than 120 days nor more than one year and
4 by a fine of not less than three hundred ninety dollars (\$390) nor
5 more than one thousand dollars (\$1,000). The person's privilege
6 to operate a motor vehicle shall be revoked by the Department of
7 Motor Vehicles as required in paragraph (5) of subdivision (a) of
8 Section 13352. The court shall require the person to surrender his
9 or her driver's license to the court in accordance with Section
10 13550.

11 (b) A person convicted of a violation of Section 23152
12 punishable under this section shall be designated as a habitual
13 traffic offender for a period of three years, subsequent to the
14 conviction. The person shall be advised of this designation
15 pursuant to subdivision (b) of Section 13350.

16 ~~SEC. 5.—~~

17 *SEC. 15.* Section 23550 of the Vehicle Code is amended to
18 read:

19 23550. (a) If a person is convicted of a violation of Section
20 23152 and the offense occurred within 10 years of three or more
21 separate violations of Section 23103, as specified in Section
22 23103.5, or Section 23152 or 23153, or any combination thereof,
23 that resulted in convictions, that person shall be punished by
24 imprisonment in the state prison, or in a county jail for not less than
25 180 days nor more than one year, and by a fine of not less than three
26 hundred ninety dollars (\$390) nor more than one thousand dollars
27 (\$1,000). The person's privilege to operate a motor vehicle shall
28 be revoked by the Department of Motor Vehicles pursuant to
29 paragraph (7) of subdivision (a) of Section 13352. The court shall
30 require the person to surrender the driver's license to the court in
31 accordance with Section 13550.

32 (b) A person convicted of a violation of Section 23152
33 punishable under this section shall be designated as a habitual
34 traffic offender for a period of three years, subsequent to the
35 conviction. The person shall be advised of this designation
36 pursuant to subdivision (b) of Section 13350.

37 ~~SEC. 6.—~~

38 *SEC. 16.* Section 23560 of the Vehicle Code is amended to
39 read:



1 23560. If a person is convicted of a violation of Section 23153
2 and the offense occurred within 10 years of a separate violation of
3 Section 23103, as specified in Section 23103.5, 23152, or 23153
4 that resulted in a conviction, that person shall be punished by
5 imprisonment in the state prison, or in a county jail for not less than
6 120 days nor more than one year, and by a fine of not less than three
7 hundred ninety dollars (\$390) nor more than five thousand dollars
8 (\$5,000). The person's privilege to operate a motor vehicle shall
9 be revoked by the Department of Motor Vehicles pursuant to
10 paragraph (4) of subdivision (a) of Section 13352. The court shall
11 require the person to surrender the driver's license to the court in
12 accordance with Section 13550.

13 ~~SEC. 7.~~

14 *SEC. 17.* Section 23566 of the Vehicle Code is amended to
15 read:

16 23566. (a) If a person is convicted of a violation of Section
17 23153 and the offense occurred within 10 years of two or more
18 separate violations of Section 23103, as specified in Section
19 23103.5, or Section 23152 or 23153, or any combination of these
20 violations, that resulted in convictions, that person shall be
21 punished by imprisonment in the state prison for a term of two,
22 three, or four years and by a fine of not less than one thousand
23 fifteen dollars (\$1,015) nor more than five thousand dollars
24 (\$5,000). The person's privilege to operate a motor vehicle shall
25 be revoked by the Department of Motor Vehicles pursuant to
26 paragraph (6) of subdivision (a) of Section 13352. The court shall
27 require the person to surrender the driver's license to the court in
28 accordance with Section 13550.

29 (b) If a person is convicted of a violation of Section 23153, and
30 the act or neglect proximately causes great bodily injury, as
31 defined in Section 12022.7 of the Penal Code, to any person other
32 than the driver, and the offense occurred within 10 years of two or
33 more separate violations of Section 23103, as specified in Section
34 23103.5, or Section 23152 or 23153, or any combination of these
35 violations, that resulted in convictions, that person shall be
36 punished by imprisonment in the state prison for a term of two,
37 three, or four years and by a fine of not less than one thousand
38 fifteen dollars (\$1,015) nor more than five thousand dollars
39 (\$5,000). The person's privilege to operate a motor vehicle shall
40 be revoked by the Department of Motor Vehicles pursuant to



1 paragraph (6) of subdivision (a) of Section 13352. The court shall
2 require the person to surrender the driver's license to the court in
3 accordance with Section 13550.

4 (c) If a person is convicted under subdivision (b), and the
5 offense for which the person is convicted occurred within 10 years
6 of four or more separate violations of Section 23103, as specified
7 in Section 23103.5, or Section 23152 or 23153, or any
8 combination of these violations, that resulted in convictions, that
9 person shall, in addition and consecutive to the sentences imposed
10 under subdivision (b), be punished by an additional term of
11 imprisonment in the state prison for three years.

12 The enhancement allegation provided in this subdivision shall
13 be pleaded and proved as provided by law.

14 (d) A person convicted of Section 23153 punishable under this
15 section shall be designated as a habitual traffic offender for a
16 period of three years, subsequent to the conviction. The person
17 shall be advised of this designation pursuant to subdivision (b) of
18 Section 13350.

19 (e) A person confined in state prison under this section shall be
20 ordered by the court to participate in an alcohol or drug program,
21 or both, that is available at the prison during the person's
22 confinement. Completion of an alcohol or drug program under this
23 section does not meet the program completion requirement of
24 paragraph (6) of subdivision (a) of Section 13352, unless the drug
25 or alcohol program is licensed under Section 11836 of the Health
26 and Safety Code, or is a program specified in Section 8001 of the
27 Penal Code.

28 ~~SEC. 8.—~~

29 *SEC. 18. Section 23575 of the Vehicle Code is amended to*
30 *read:*

31 23575. (a) (1) In addition to any other provisions of law, the
32 court may require that ~~any~~ a person convicted of a first offense
33 violation of Section 23152 or 23153 to install a certified ignition
34 interlock device on any vehicle that the person owns or operates
35 and prohibit that person from operating a motor vehicle unless that
36 vehicle is equipped with a functioning, certified ignition interlock
37 device. The court shall give heightened consideration to applying
38 this sanction to first offense violators with 0.20 percent or more,
39 by weight, of alcohol in his or her blood at arrest, or with two or
40 more prior moving traffic violations, or of persons who refused the



1 chemical tests at arrest. If the court orders the ignition interlock
2 device restriction, the term shall be determined by the court for a
3 period not to exceed three years from the date of conviction. The
4 court shall notify the Department of Motor Vehicles, as specified
5 in subdivision (a) of Section 1803, of the terms of the restrictions
6 in accordance with subdivision (a) of Section 1804. The
7 Department of Motor Vehicles shall place the restriction in the
8 person's records in the Department of Motor Vehicles.

9 (2) The court shall require ~~any~~ a person convicted of a violation
10 of Section 14601.2 to install an ignition interlock device on any
11 vehicle that the person owns or operates and prohibit the person
12 from operating a motor vehicle unless the vehicle is equipped with
13 a functioning, certified ignition interlock device. The term of the
14 restriction shall be determined by the court for a period not to
15 exceed three years from the date of conviction. The court shall
16 notify the Department of Motor Vehicles, as specified in
17 subdivision (a) of Section 1803, of the terms of the restrictions in
18 accordance with subdivision (a) of Section 1804. The Department
19 of Motor Vehicles shall place the restriction in the person's records
20 in the Department of Motor Vehicles.

21 (b) The court shall include on the abstract of conviction or
22 violation submitted to the Department of Motor Vehicles under
23 Section 1803 or 1816, the requirement and term for the use of a
24 certified ignition interlock device. The records of the department
25 shall reflect mandatory use of the device for the term ordered by
26 the court.

27 (c) The court shall advise the person that installation of an
28 ignition interlock device on a vehicle does not allow the person to
29 drive without a valid driver's license.

30 (d) ~~Any~~ A person whose driving privilege is restricted by the
31 court pursuant to this section shall arrange for each vehicle with
32 an ignition interlock device to be serviced by the installer at least
33 once every 60 days in order for the installer to recalibrate and
34 monitor the operation of the device. The installer shall notify the
35 court if the device is removed or indicates that the person has
36 attempted to remove, bypass, or tamper with the device, or if the
37 person fails three or more times to comply with any requirement
38 for the maintenance or calibration of the ignition interlock device.
39 There is no obligation for the installer to notify the court if the
40 person has complied with all of the requirements of this article.



1 (e) The court shall monitor the installation and maintenance of
2 any ignition interlock device restriction ordered pursuant to
3 subdivision (a) or (l). If ~~any~~ a person fails to comply with the court
4 order, the court shall give notice of the fact to the department
5 pursuant to Section 40509.1.

6 (f) (1) Pursuant to Section 13352, if ~~any~~ a person is convicted
7 of a violation of Section 23152 or 23153, and the offense occurred
8 within ~~seven~~ 10 years of one or more separate violations of Section
9 23152 or 23153 that resulted in a conviction, the person may apply
10 to the Department of Motor Vehicles for a restricted driver's
11 license pursuant to Section 13352 that prohibits the person from
12 operating a motor vehicle unless that vehicle is equipped with a
13 functioning ignition interlock device, certified pursuant to Section
14 13386. The restriction shall remain in effect for at least the
15 remaining period of the original suspension or revocation and until
16 all reinstatement requirements in Section 13352 are met.

17 (2) Pursuant to subdivision (g), the Department of Motor
18 Vehicles shall immediately terminate the restriction issued
19 pursuant to Section 13352 and shall immediately suspend or
20 revoke the privilege to operate a motor vehicle of ~~any~~ a person who
21 attempts to remove, bypass, or tamper with the device, who has the
22 device removed prior to the termination date of the restriction, or
23 who fails three or more times to comply with any requirement for
24 the maintenance or calibration of the ignition interlock device
25 ordered pursuant to Section 13352. The privilege shall remain
26 suspended or revoked for the remaining period of the originating
27 suspension or revocation and until all reinstatement requirements
28 in Section 13352 are met.

29 (g) ~~Any~~ A person whose driving privilege is restricted by the
30 Department of Motor Vehicles pursuant to Section 13352 shall
31 arrange for each vehicle with an ignition interlock device to be
32 serviced by the installer at least once every 60 days in order for the
33 installer to recalibrate the device and monitor the operation of the
34 device. The installer shall notify the Department of Motor Vehicles
35 if the device is removed or indicates that the person has attempted
36 to remove, bypass, or tamper with the device, or if the person fails
37 three or more times to comply with any requirement for the
38 maintenance or calibration of the ignition interlock device. There
39 is no obligation on the part of the installer to notify the department



1 or the court if the person has complied with all of the requirements
2 of this section.

3 (h) Nothing in this section permits a person to drive without a
4 valid driver’s license.

5 (i) The Department of Motor Vehicles shall include
6 information along with the order of suspension or revocation for
7 repeat offenders informing them that after a specified period of
8 suspension or revocation has been completed, the person may
9 either install an ignition interlock device on any vehicle that the
10 person owns or operates or remain with a suspended or revoked
11 driver’s license.

12 (j) Pursuant to this section, *an* out-of-state ~~residents~~ *resident*
13 who otherwise would qualify for an ignition interlock device
14 restricted license in California shall be prohibited from operating
15 a motor vehicle in California unless that vehicle is equipped with
16 a functioning ignition interlock device. ~~No~~ *An* ignition interlock
17 device is *not* required to be installed on any vehicle owned by the
18 defendant that is not driven in California.

19 (k) If a person has a medical problem that does not permit the
20 person to breathe with sufficient strength to activate the device,
21 then that person shall only have the suspension option.

22 (l) This section does not restrict a court from requiring
23 installation of an ignition interlock device and prohibiting
24 operation of a motor vehicle unless that vehicle is equipped with
25 a functioning, certified ignition interlock device for ~~any~~ *a* persons
26 to whom subdivision (a) or (b) does not apply. The term of the
27 restriction shall be determined by the court for a period not to
28 exceed three years from the date of conviction. The court shall
29 notify the Department of Motor Vehicles, as specified in
30 subdivision (a) of Section 1803, of the terms of the restrictions in
31 accordance with subdivision (a) of Section 1804. The Department
32 of Motor Vehicles shall place the restriction in the person’s records
33 in the Department of Motor Vehicles.

34 (m) For *the* purposes of this section, “vehicle” does not
35 include a motorcycle until the state certifies an ignition interlock
36 device that can be installed on a motorcycle. Any person subject
37 to an ignition interlock device restriction shall not operate a
38 motorcycle for the duration of the ignition interlock device
39 restriction period.



1 (n) For *the* purposes of this section, “owned” means solely
2 owned or owned in conjunction with another person or legal entity.
3 For purposes of this section, “operates” includes operating
4 vehicles that are not owned by the person subject to this section.

5 (o) For the purposes of this section, bypass includes, but is not
6 limited to, either of the following:

7 (1) Any combination of failing or not taking the ignition
8 interlock device rolling retest three consecutive times.

9 (2) Any incidence of failing or not taking the ignition interlock
10 device rolling retest, when not followed by an incidence of passing
11 the ignition interlock rolling retest prior to turning the vehicles’s
12 engine off.

13 *SEC. 19. Section 23612 of the Vehicle Code is amended to*
14 *read:*

15 23612. (a) (1) (A) A person who drives a motor vehicle is
16 deemed to have given his or her consent to chemical testing of his
17 or her blood or breath for the purpose of determining the alcoholic
18 content of his or her blood, if lawfully arrested for an offense
19 allegedly committed in violation of Section 23140, 23152, or
20 23153. If a blood or breath test, or both, are unavailable, then
21 paragraph (2) of subdivision (d) applies.

22 (B) A person who drives a motor vehicle is deemed to have
23 given his or her consent to chemical testing of his or her blood or
24 urine for the purpose of determining the drug content of his or her
25 blood, if lawfully arrested for an offense allegedly committed in
26 violation of Section 23140, 23152, or 23153.

27 (C) The testing shall be incidental to a lawful arrest and
28 administered at the direction of a peace officer having reasonable
29 cause to believe the person was driving a motor vehicle in violation
30 of Section 23140, 23152, or 23153.

31 (D) The person shall be told that his or her failure to submit to,
32 or the failure to complete, the required chemical testing will result
33 in a fine, mandatory imprisonment if the person is convicted of a
34 violation of Section 23152 or 23153, and (i) the suspension of the
35 person’s privilege to operate a motor vehicle for a period of one
36 year, (ii) the revocation of the person’s privilege to operate a motor
37 vehicle for a period of two years if the refusal occurs within ~~seven~~
38 *10* years of a separate violation of Section 23103 as specified in
39 Section 23103.5, or of Section 23140, 23152, or 23153, or of
40 Section 191.5 or paragraph (3) of subdivision (c) of Section 192



1 of the Penal Code that resulted in a conviction, or if the person's
2 privilege to operate a motor vehicle has been suspended or revoked
3 pursuant to Section 13353, 13353.1, or 13353.2 for an offense that
4 occurred on a separate occasion, or (iii) the revocation of the
5 person's privilege to operate a motor vehicle for a period of three
6 years if the refusal occurs within ~~seven~~ 10 years of two or more
7 separate violations of Section 23103 as specified in Section
8 23103.5, or of Section 23140, 23152, or 23153, or of Section 191.5
9 or paragraph (3) of subdivision (c) of Section 192 of the Penal
10 Code, or any combination thereof, that resulted in convictions, or
11 if the person's privilege to operate a motor vehicle has been
12 suspended or revoked two or more times pursuant to Section
13 13353, 13353.1, or 13353.2 for offenses that occurred on separate
14 occasions, or if there is any combination of those convictions or
15 administrative suspensions or revocations.

16 (2) (A) If the person is lawfully arrested for driving under the
17 influence of an alcoholic beverage, the person has the choice of
18 whether the test shall be of his or her blood or breath and the officer
19 shall advise the person that he or she has that choice. If the person
20 arrested either is incapable, or states that he or she is incapable, of
21 completing the chosen test, the person shall submit to the
22 remaining test. If a blood or breath test, or both, are unavailable,
23 then paragraph (2) of subdivision (d) applies.

24 (B) If the person is lawfully arrested for driving under the
25 influence of any drug or the combined influence of an alcoholic
26 beverage and any drug, the person has the choice of whether the
27 test shall be of his or her blood, breath, or urine, and the officer
28 shall advise the person that he or she has that choice.

29 (C) A person who chooses to submit to a breath test may also
30 be requested to submit to a blood or urine test if the officer has
31 reasonable cause to believe that the person was driving under the
32 influence of a drug or the combined influence of an alcoholic
33 beverage and a drug and if the officer has a clear indication that a
34 blood or urine test will reveal evidence of the person being under
35 the influence. The officer shall state in his or her report the facts
36 upon which that belief and that clear indication are based. The
37 person has the choice of submitting to and completing a blood or
38 urine test, and the officer shall advise the person that he or she is
39 required to submit to an additional test and that he or she may
40 choose a test of either blood or urine. If the person arrested either



1 is incapable, or states that he or she is incapable, of completing
2 either chosen test, the person shall submit to and complete the
3 other remaining test.

4 (3) If the person is lawfully arrested for an offense allegedly
5 committed in violation of Section 23140, 23152, or 23153, and,
6 because of the need for medical treatment, the person is first
7 transported to a medical facility where it is not feasible to
8 administer a particular test of, or to obtain a particular sample of,
9 the person's blood, breath, or urine, the person has the choice of
10 those tests that are available at the facility to which that person has
11 been transported. In that case, the officer shall advise the person
12 of those tests that are available at the medical facility and that the
13 person's choice is limited to those tests that are available.

14 (4) The officer shall also advise the person that he or she does
15 not have the right to have an attorney present before stating
16 whether he or she will submit to a test or tests, before deciding
17 which test or tests to take, or during administration of the test or
18 tests chosen, and that, in the event of refusal to submit to a test or
19 tests, the refusal may be used against him or her in a court of law.

20 (5) A person who is unconscious or otherwise in a condition
21 rendering him or her incapable of refusal is deemed not to have
22 withdrawn his or her consent and a test or tests may be
23 administered whether or not the person is told that his or her failure
24 to submit to, or the noncompletion of, the test or tests will result
25 in the suspension or revocation of his or her privilege to operate
26 a motor vehicle. A person who is dead is deemed not to have
27 withdrawn his or her consent and a test or tests may be
28 administered at the direction of a peace officer.

29 (b) A person who is afflicted with hemophilia is exempt from
30 the blood test required by this section.

31 (c) A person who is afflicted with a heart condition and is using
32 an anticoagulant under the direction of a licensed physician and
33 surgeon is exempt from the blood test required by this section.

34 (d) (1) A person lawfully arrested for an offense allegedly
35 committed while the person was driving a motor vehicle in
36 violation of Section 23140, 23152, or 23153 may request the
37 arresting officer to have a chemical test made of the arrested
38 person's blood or breath for the purpose of determining the
39 alcoholic content of that person's blood, and, if so requested, the
40 arresting officer shall have the test performed.



1 (2) If a blood or breath test is not available under subparagraph
2 (A) of paragraph (1) of subdivision (a), or under subparagraph (A)
3 of paragraph (2) of subdivision (a), or under paragraph (1) of this
4 subdivision, the person shall submit to the remaining test in order
5 to determine the percent, by weight, of alcohol in the person's
6 blood. If both the blood and breath tests are unavailable, the person
7 shall be deemed to have given his or her consent to chemical
8 testing of his or her urine and shall submit to a urine test.

9 (e) If the person, who has been arrested for a violation of
10 Section 23140, 23152, or 23153, refuses or fails to complete a
11 chemical test or tests, or requests that a blood or urine test be taken,
12 the peace officer, acting on behalf of the department, shall serve
13 the notice of the order of suspension or revocation of the person's
14 privilege to operate a motor vehicle personally on the arrested
15 person. The notice shall be on a form provided by the department.

16 (f) If the peace officer serves the notice of the order of
17 suspension or revocation of the person's privilege to operate a
18 motor vehicle, the peace officer shall take possession of all driver's
19 licenses issued by this state which are held by the person. The
20 temporary driver's license shall be an endorsement on the notice
21 of the order of suspension and shall be valid for 30 days from the
22 date of arrest.

23 (g) (1) The peace officer shall immediately forward a copy of
24 the completed notice of suspension or revocation form and any
25 driver's license taken into possession under subdivision (f), with
26 the report required by Section 13380, to the department. If the
27 person submitted to a blood or urine test, the peace officer shall
28 forward the results immediately to the appropriate forensic
29 laboratory. The forensic laboratory shall forward the results of the
30 chemical tests to the department within 15 calendar days of the
31 date of the arrest.

32 (2) (A) Notwithstanding any other provision of law, a
33 document containing data prepared and maintained in the
34 governmental forensic laboratory computerized database system
35 that is electronically transmitted or retrieved through public or
36 private computer networks to or by the department is the best
37 available evidence of the chemical test results in all administrative
38 proceedings conducted by the department. In addition, any other
39 official record that is maintained in the governmental forensic
40 laboratory, relates to a chemical test analysis prepared and



1 maintained in the governmental forensic laboratory computerized
2 database system, and is electronically transmitted and retrieved
3 through a public or private computer network to or by the
4 department is admissible as evidence in the department's
5 administrative proceedings. In order to be admissible as evidence
6 in administrative proceedings, a document described in this
7 subparagraph shall bear a certification by the employee of the
8 department who retrieved the document certifying that the
9 information was received or retrieved directly from the
10 computerized database system of a governmental forensic
11 laboratory and that the document accurately reflects the data
12 received or retrieved.

13 (B) Notwithstanding any other provision of law, the failure of
14 an employee of the department to certify under subparagraph (A)
15 is not a public offense.

16 (h) A preliminary alcohol screening test that indicates the
17 presence or concentration of alcohol based on a breath sample in
18 order to establish reasonable cause to believe the person was
19 driving a vehicle in violation of Section 23140, 23152, or 23153
20 is a field sobriety test and may be used by an officer as a further
21 investigative tool.

22 (i) If the officer decides to use a preliminary alcohol screening
23 test, the officer shall advise the person that he or she is requesting
24 that person to take a preliminary alcohol screening test to assist the
25 officer in determining if that person is under the influence of
26 alcohol or drugs, or a combination of alcohol and drugs. The
27 person's obligation to submit to a blood, breath, or urine test, as
28 required by this section, for the purpose of determining the alcohol
29 or drug content of that person's blood, is not satisfied by the person
30 submitting to a preliminary alcohol screening test. The officer
31 shall advise the person of that fact and of the person's right to
32 refuse to take the preliminary alcohol screening test.

33 *SEC. 20.* Section 23622 of the Vehicle Code is amended to
34 read:

35 23622. (a) In any case charging a violation of Section 23152
36 or 23153 and the offense occurred within 10 years of one or more
37 separate violations of Section 23103, as specified in Section
38 23103.5, that occurred on or after January 1, 1982, 23152, or
39 23153, or any combination thereof, that resulted in convictions,
40 the court shall not strike any separate conviction of those offenses



1 for purposes of sentencing in order to avoid imposing, as part of
2 the sentence or term of probation, the minimum time of
3 imprisonment and the minimum fine, as provided in this chapter,
4 or for purposes of avoiding revocation, suspension, or restriction
5 of the privilege to operate a motor vehicle, as provided in this code.

6 (b) In any case charging a violation of Section 23152 or 23153,
7 the court shall obtain a copy of the driving record of the person
8 charged from the Department of Motor Vehicles and may obtain
9 any records from the Department of Justice or any other source to
10 determine if one or more separate violations of Section 23103, as
11 specified in Section 23103.5, that occurred on or after January 1,
12 1982, 23152, or 23153, or any combination thereof, that resulted
13 in convictions, have occurred within 10 years of the charged
14 offense. The court may obtain, and accept as rebuttable evidence,
15 a printout from the Department of Motor Vehicles of the driving
16 record of the person charged, maintained by electronic and storage
17 media pursuant to Section 1801 for the purpose of proving those
18 separate violations.

19 (c) If any separate convictions of violations of Section 23152
20 or 23153 are reported to have occurred within 10 years of the
21 charged offense, the court shall notify each court where any of the
22 separate convictions occurred for the purpose of enforcing terms
23 and conditions of probation pursuant to Section 23602.

24 ~~SEC. 9.—~~

25 *SEC. 21.* Section 23646 of the Vehicle Code is amended to
26 read:

27 23646. (a) Each county alcohol program administrator or the
28 administrator's designee shall develop, implement, operate, and
29 administer an alcohol and drug problem assessment program
30 pursuant to this article for each person described in subdivision

31 (b). The alcohol and drug problem assessment program may
32 include a referral and client tracking component.

33 (b) (1) The court shall order a person to participate in an
34 alcohol and drug problem assessment program pursuant to this
35 section and Sections 23647 to 23649, inclusive, and the related
36 regulations of the State Department of Alcohol and Drug
37 Programs, if the person was convicted of a violation of Section
38 23152 or 23153 that occurred within 10 years of a separate
39 violation of Section 23152 or 23153 that resulted in a conviction,
40 the person was required to attend a licensed program pursuant to



1 a court order, and the person has once failed to comply with the
2 rules and policies of the licensed program, other than a rule
3 relating to the payment of fees, in accordance with the rules and
4 regulations of the state department.

5 (2) A court may order a person convicted of a violation of
6 Section 23152 or 23153 to attend an alcohol and drug problem
7 assessment program pursuant to this article.

8 (3) (A) The court shall order a person convicted of a violation
9 of Section 23152 or 23153 who has previously been convicted of
10 a violation of Section 23152 or 23153 that occurred more than 10
11 years ago, or has been previously convicted of a violation of
12 subdivision (f) of Section 647 of the Penal Code, to attend and
13 complete an alcohol and drug problem assessment program under
14 this article. In order to determine whether a previous conviction
15 ~~exists, the court may~~ *for a violation occurring more than 10 years*
16 *ago exists, the court shall* rely on state summary criminal history
17 information, local summary history information, or records made
18 available to the judge through the district attorney.

19 (B) If the program assessment recommends additional
20 treatment, the court may order a person ~~under Section 23538~~
21 *sentenced under either Section 23538 or 23556* to enroll ~~and~~
22 ~~participate in, participate, and complete~~ either of the programs
23 described under paragraph (4) of subdivision (b) of Section 23542.

24 (c) The State Department of Alcohol and Drug Programs shall
25 establish minimum specifications for alcohol and other drug
26 problem assessments and reports not later than September 30,
27 1999.

28 ~~SEC. 10.—~~

29 *SEC. 22.* No reimbursement is required by this act pursuant
30 to Section 6 of Article XIII B of the California Constitution
31 because the only costs that may be incurred by a local agency or
32 school district will be incurred because this act creates a new crime
33 or infraction, eliminates a crime or infraction, or changes the
34 penalty for a crime or infraction, within the meaning of Section
35 17556 of the Government Code, or changes the definition of a
36 crime within the meaning of Section 6 of Article XIII B of the
37 California Constitution.

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